

JUDGE DAVID G. ESTUDILLO

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,)	No. CR22-5139-DGE
Plaintiff,)	
v.)	UNOPPOSED DEFENSE MOTION TO
JOAO RICARDO DEBORBA,)	CONTINUE TRIAL DATE AND
Defendant.)	PRETRIAL MOTIONS DUE DATE

Joao DeBorba, through his attorney, Assistant Federal Public Defender Rebecca Fish, respectfully requests a continuance of the trial date to September 25, 2023, with a pretrial motions deadline consistent with the new trial date. The request for continuance is unopposed by the Government, as represented by Assistant United States Attorney Max Shiner.

1) Mr. DeBorba is charged by Indictment with:

COUNT 1 & 2 Unlawful Possession of Firearms and Ammunition,
In violation of 18 U.S.C. § 922(g)(5) and (8);

COUNT 3 Unlawful Possession of a Firearm, in violation of 18
U.S.C. § 922(g)(5);

COUNT 4 & 5 False Statement During Purchase of Firearm, in
violation of 18 U.S.C. § 922(a)(6); and

COUNT 6 False Claim to United States Citizenship, in violation
of 18 U.S.C. § 911.

1 2) On May 6, 2022, Mr. DeBorba was arrested and made his initial
2 appearance in Court before Judge David W. Christel (dkt. 1, 6). An Indictment was
3 returned on May 19, 2022 (dkt. 9) and Mr. DeBorba was arraigned on May 31, 2022
4 (dkt. 13).

5 Three previous extensions of the trial date have been granted and trial is
6 presently set for June 26, 2023 with pretrial motions due May 16, 2023 (dkt. 28).

7 3) Defense counsel has been diligently working through the voluminous
8 discovery as well as important factual and legal investigation. However, the defense
9 team requires additional time to complete necessary investigation, and defense counsel
10 requires additional time to effectively research and prepare pretrial motions—including
11 potential motions based on *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S.
12 Ct. 2111 (2022) and to advise Mr. DeBorba and seek a resolution that would best guard
13 against serious immigration consequences. Defense counsel has been diligently
14 pursuing these legal issues, however, particularly with regard to a *Bruen* motion,
15 locating a qualified and available expert has proven more difficult than anticipated, as
16 there are a relatively small number of qualified experts and a large number of cases and
17 parties seeking their assistance.

18 4) The defense requests additional time to continue its factual and legal
19 investigation of this case and to explore potential legal, immigration, and factual issues
20 for purposes of pretrial motions and advising Mr. DeBorba. In order to provide
21 effective assistance of counsel to Mr. DeBorba for these very serious charges, the
22 defense requests additional time beyond the current trial date of June 26, 2023, in order
23 to prepare for trial and file pre-trial motions.

24 For these reasons, the parties request the Court find that:

25 (a) taking into account the exercise of due diligence, a failure to grant a
26 continuance would deny counsel for the defendant the reasonable time necessary for

1 effective preparation, due to counsel's need for more time to review the evidence,
2 consider possible defenses, and gather evidence material to the defense, as set forth in
3 18 U.S.C. § 3161(h)(7)(B)(iv); and

4 (b) a failure to grant a continuance would likely result in a miscarriage of justice,
5 as set forth in 18 U.S.C. § 3161(h)(7)(B)(i); and

6 (c) the additional time requested is a reasonable period of delay, as the defendant
7 has requested more time to prepare for trial, to investigate the matter, to gather evidence
8 material to the defense, and to consider possible defenses; and

9 (d) the case is sufficiently complex that it is unreasonable to expect adequate
10 preparation for pretrial proceedings or the trial itself within the current trial schedule, as
11 set forth in 18 U.S.C. § 3161(h)(7)(B)(ii); and

12 (e) the ends of justice will best be served by a continuance, and the ends of
13 justice outweigh the best interests of the public and the defendant in any speedier trial,
14 as set forth in 18 U.S.C. § 3161(h)(7)(A); and

15 (f) the additional time requested between the current trial date of June 26, 2023,
16 and the new trial date of September 25, 2023, is necessary to provide counsel for the
17 defendant reasonable time to prepare for trial considering all of the facts set forth
18 above.

19 Mr. DeBorba has executed a speedy trial waiver through October 16, 2023,
20 which will be filed with this motion.

21 Defense counsel has conferred with Assistant United States Attorney Max
22 Shiner who has no objection to a continuance of the trial date and pretrial motions due
23 date.

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1 The parties further ask the Court to exclude the time period from the date of this
2 motion to the new trial date for purposes of computing the time limitations imposed by
3 the Speedy Trial Act.

4 DATED this 23rd day of May 2023.

5 Respectfully submitted,

6 s/ Rebecca Fish

7 Assistant Federal Public Defender

8 Attorney for Mr. Joao DeBorba
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